

¹ 5 U.S.C. § 8101 *et seq.*

elbows when unboxing and stacking monitors on a cart while in the performance of duty. She did not immediately stop work.

In a March 15, 2021 treatment note, Tiffany Pacocha, a nurse practitioner, returned appellant to light-duty work, with restrictions of no heavy lifting and avoiding repetitive movements of the arms.

On May 26, 2021 Dr. Emily M. Jones, a Board-certified internist, treated appellant for right elbow swelling and lateral epicondylitis of both elbows. She referred appellant for a magnetic resonance imaging (MRI) scan of the right elbow. In a separate note of even date, Dr. Jones referred appellant for physical therapy.

On June 2, 2021 the employing establishment challenged appellant's claim, asserting that she had not established that she sustained an injury causally related to factors of her employment.

In a June 8, 2021 development letter, OWCP informed appellant of the deficiencies of her claim. It advised her of the type of factual and medical evidence required and provided a questionnaire for her completion. OWCP afforded appellant 30 days to respond.

In support of her claim, appellant submitted a report dated June 9, 2021 by Dr. Jones who noted evaluating appellant on May 26, 2021 for bilateral elbow pain that began when she was lifting heavy computer monitors at work in February 2021 and felt a strain in both elbows. Dr. Jones further reported that appellant's pain persisted throughout the day and she sought medical treatment. She noted swelling in the proximal wrist extensor of unclear etiology. Dr. Jones diagnosed lateral epicondylitis of both elbows and recommended an MRI scan of the right elbow and physical therapy.

In an undated narrative statement, appellant reported experiencing an unrelated episodic seizure at work and was admitted to the hospital. She indicated that she accidentally "doubled up" on her medication due to forgetfulness and experienced the seizure. Appellant was unsure if the seizure was related to her work. She noted that her arm injury occurred within weeks of the seizure incident. Appellant reported unboxing new monitors for deployment when she felt a sharp pain in both arms. She thought her elbow condition would resolve on its own, but the pain persisted and became more acute. Appellant reported taking sick leave to let her arm rest. Her elbows did not resolve and she sought treatment from an orthopedist who diagnosed lateral epicondylitis of both arms. Appellant explained that the gap between the injury and medical diagnoses occurred because she thought her condition would resolve without treatment.

By decision dated July 20, 2021, OWCP denied appellant's traumatic injury claim, finding that the medical evidence submitted was insufficient to establish causal relationship between her diagnosed conditions and the accepted February 12, 2021 employment incident.

LEGAL PRECEDENT

An employee seeking benefits under FECA² has the burden of proof to establish the essential elements of his or her claim, including that the individual is an employee of the United States within the meaning of FECA, that the claim was timely filed within the applicable time limitation of FECA,³ that an injury was sustained in the performance of duty as alleged, and that any disability or medical condition for which compensation is claimed is causally related to the employment injury.⁴ These are the essential elements of each and every compensation claim, regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.⁵

To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it first must be determined whether fact of injury has been established. First, the employee must submit sufficient evidence to establish that he or she actually experienced the employment incident at the time and place, and in the manner alleged. Second, the employee must submit sufficient evidence to establish that the employment incident caused a personal injury.⁶

The medical evidence required to establish a causal relationship is rationalized medical opinion evidence.⁷ The opinion of the physician must be based on a complete factual and medical background of the employee, must be one of reasonable medical certainty, and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and specific employment incident identified by the employee.⁸

ANALYSIS

The Board finds that appellant has not met her burden of proof to establish a medical condition causally related to the accepted February 12, 2021 employment incident.

Dr. Jones treated appellant on May 26, 2021 for right elbow swelling and lateral epicondylitis of both elbows. However, she did not offer an opinion on causal relationship. The Board has held that medical evidence that does not offer an opinion regarding the cause of an

² *Id.*

³ *F.H.*, Docket No. 18-0869 (issued January 29, 2020); *J.P.*, Docket No. 19-0129 (issued April 26, 2019); *Joe D. Cameron*, 41 ECAB 153 (1989).

⁴ *L.C.*, Docket No. 19-1301 (issued January 29, 2020); *J.H.*, Docket No. 18-1637 (issued January 29, 2020); *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

⁵ *P.A.*, Docket No. 18-0559 (issued January 29, 2020); *K.M.*, Docket No. 15-1660 (issued September 16, 2016); *Delores C. Ellyett*, 41 ECAB 992 (1990).

⁶ *T.J.*, Docket No. 19-0461 (issued August 11, 2020); *K.L.*, Docket No. 18-1029 (issued January 9, 2019); *John J. Carlone*, 41 ECAB 354 (1989).

⁷ *S.S.*, Docket No. 19-0688 (issued January 24, 2020); *A.M.*, Docket No. 18-1748 (issued April 24, 2019); *Robert G. Morris*, 48 ECAB 238 (1996).

⁸ *T.L.*, Docket No. 18-0778 (issued January 22, 2020); *Y.S.*, Docket No. 18-0366 (issued January 22, 2020); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

employee's condition or disability is of no probative value on the issue of causal relationship.⁹ Thus, the Board finds that this report is insufficient to meet appellant's burden of proof.

Similarly, on June 9, 2021 Dr. Jones reported evaluating appellant on May 26, 2021 for bilateral elbow pain after lifting heavy computer monitors at work in February. She noted swelling in the proximal wrist extensor of unclear etiology and diagnosed lateral epicondylitis of both elbows. Dr. Jones, however, did not offer an opinion on causal relationship. Therefore this report is of no probative value and is insufficient to establish appellant's claim.¹⁰

Appellant submitted a report from a nurse practitioner. However, certain healthcare providers such as nurse practitioners¹¹ are not considered "physician[s]" as defined under FECA.¹² Consequently, their medical findings and/or opinions will not suffice for purposes of establishing entitlement to FECA benefits.¹³

As the record lacks rationalized medical evidence establishing causal relationship between a medical condition and the accepted February 12, 2021 employment incident, the Board finds that appellant has not met her burden of proof.

Appellant may submit new evidence or argument with a written request for reconsideration to OWCP within one year of this merit decision, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. §§ 10.605 through 10.607.

CONCLUSION

The Board finds that appellant has not met her burden of proof to establish a medical condition causally related to the accepted February 12, 2021 employment incident.

⁹ See *S.H.*, Docket No. 19-1128 (issued December 2, 2019); *L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

¹⁰ *Id.*

¹¹ *S.J.*, Docket No. 17-0783, n.2 (issued April 9, 2018) (nurse practitioners are not considered physicians under FECA).

¹² Section 8101(2) of FECA provides that physician "includes surgeons, podiatrists, dentists, clinical psychologists, optometrists, chiropractors, and osteopathic practitioners within the scope of their practice as defined by State law." 5 U.S.C. § 8101(2); 20 C.F.R. § 10.5(t). See also Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3a(1) (January 2013); *R.L.*, Docket No. 19-0440 (issued July 8, 2019) (nurse practitioners are not considered physicians under FECA); *David P. Sawchuk*, 57 ECAB 316, 320 n.11 (2006) (lay individuals such as physician assistants, nurses, and physical therapists are not competent to render a medical opinion under FECA).

¹³ *Id.*

ORDER

IT IS HEREBY ORDERED THAT the July 20, 2021 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: January 20, 2022
Washington, DC

Alec J. Koromilas, Chief Judge
Employees' Compensation Appeals Board

Patricia H. Fitzgerald, Alternate Judge
Employees' Compensation Appeals Board

Valerie D. Evans-Harrell, Alternate Judge
Employees' Compensation Appeals Board